

Message Text

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ACTION IO-14

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TO SECSTATE WASHDC PRIORITY 7588
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UNCLAS SECTION 01 OF 02 VIENNA 07338

E.O. 11652: N/A
TAGS: UN, PFOR
SUBJECT: UN CONFERENCE ON SUCCESSION OF STATES IN
RESPECT OF TREATIES

1. FOLLOWING THE RECOMMENDATION OF WORKING GROUP ON
DISPUTE SETTLEMENT CHAIRED BY ZEMANEK (AUSTRIA) THE
COMMITTEE OF THE WHOLE APPROVED BY CONSENSUS THE FOLLOW-
ING TEXTS OF FIVE ARTICLES ON DISPUTE SETTLEMENT. QUOTE

- ARTICLE A

IF A DISPUTE REGARDING THE INTERPRETATION OR APPLICATION
OF THE PRESENT CONVENTION ARISES BETWEEN TWO OR MORE
STATES PARTIES THEY SHALL SEEK TO RESOLVE IT BY A
PROCESS OF CONSULTATION AND NEGOTIATION UPON THE
REQUEST OF ANY OF THEM.

- ARTICLE B

IF THE DISPUTE IS NOT RESOLVED WITHIN SIX MONTHS OF THE
DATE ON WHICH THE REQUEST REFERRED TO IN ARTICLE A HAS
BEEN MADE, ANY PARTY TO THE DISPUTE MAY SUBMIT IT TO
THE CONCILIATION PROCEDURE IN THE ANNEX TO THIS CON-
VENTION BY SUBMITTING A REQUEST TO THAT EFFECT TO THE
SECRETARY-GENERAL OF THE UNITED NATIONS AND TO THE
OTHER STATE PARTY OR STATES PARTIES TO THE DISPUTE.

- ARTICLE C

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ANY STATE PARTY TO THE PRESENT CONVENTION, AT THE TIME
OF SIGNATURE OR RATIFICATION OF THIS CONVENTION OR
ACCESSION THERETO OR AT ANY TIME THEREAFTER, MAY, BY
NOTIFICATION TO THE DEPOSITARY, DECLARE THAT, WHERE A
DISPUTE HAS NOT BEEN RESOLVED BY THE APPLICATION OF
THE PROCEDURES SET FORTH IN ARTICLES A AND B, SUCH
DISPUTE MAY BE SUBMITTED FOR A DECISION TO THE INTER-

NATIONAL COURT OF JUSTICE BY A WRITTEN APPLICATION OF ANY PARTY TO THE DISPUTE, OR IN THE ALTERNATIVE TO ARBITRATION, PROVIDED THAT THE OTHER STATE PARTY TO THE DISPUTE HAS MADE A LIKE DECLARATION.

- ARTICLE D

WITHOUT PREJUDICE TO ARTICLES A, B AND C, IF A DISPUTE REGARDING THE INTERPRETATION OR APPLICATION OF THE PRESENT CONVENTION ARISES BETWEEN TWO OR MORE STATES PARTIES, THEY MAY BY COMMON CONSENT, AGREE TO SUBMIT IT TO ARBITRATION, OR TO THE INTERNATIONAL COURT OF JUSTICE, OR TO ANY OTHER APPROPRIATE PROCEDURE FOR THE SETTLEMENT OF DISPUTES.

- ARTICLE E

NOTHING IN THE FOREGOING ARTICLES SHALL AFFECT THE RIGHTS OR OBLIGATIONS OF THE PARTIES UNDER ANY PROVISIONS IN FORCE BINDING THE PARTIES WITH REGARD TO THE SETTLEMENT OF DISPUTES. UNQUOTE.

AN ANNEX ON CONCILIATION PROCEDURES DUPLICATES THE ANNEX TO THE VIENNA CONVENTION ON THE LAW OF TREATIES. AS ANTICIPATED, THE WEO GROUP COULD NOT GAIN SUFFICIENT SUPPORT FOR EITHER A COMPULSORY DISPUTE SETTLEMENT OR OPTING OUT PROVISION AND EVEN THE OPTING IN PROVISION OF ARTICLE C WAS OBTAINED ONLY WITH DIFFICULTY. US DEL MADE A STRONG STATEMENT IN THE COMMITTEE OF THE WHOLE ON THE INADEQUACY OF THE DISPUTE SETTLEMENT CLAUSES.

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2. FOLLOWING RECOMMENDATION OF INFORMAL CONSULTATION GROUP CHAIRED BY RITTER (SWITZERLAND), THE COMMITTEE OF THE WHOLE HAS ADOPTED BY CONSENSUS THE ILC TEXT OF ARTICLE 6 AND THE FOLLOWING TEXT OF ARTICLE 7.

QUOTE:

- 1. WITHOUT PREJUDICE TO THE APPLICATION OF ANY OF THE RULES SET FORTH IN THE PRESENT CONVENTION TO WHICH THE EFFECTS OF A SUCCESSION OF STATES WOULD BE SUBJECT UNDER INTERNATIONAL LAW INDEPENDENTLY OF THE CONVENTION, THE CONVENTION APPLIES ONLY IN RESPECT OF A SUCCESSION OF STATES WHICH HAS OCCURRED AFTER THE ENTRY INTO FORCE OF THE PRESENT CONVENTION EXCEPT AS MAY BE OTHERWISE AGREED.

- 2. A SUCCESSOR STATE MAY, AT THE TIME OF EXPRESSING ITS CONSENT TO BE BOUND BY THE PRESENT CONVENTION OR AT ANY TIME THEREAFTER, DECLARE THAT IT WILL APPLY THE PROVISIONS OF THE CONVENTION IN RESPECT OF ITS OWN SUCCESSION OF STATES WHICH HAS OCCURRED BEFORE THE ENTRY INTO FORCE OF THE CONVENTION IN RELATION TO ANY OTHER CONTRACTING STATE OR STATE PARTY TO THE CONVENTION WHICH DECLARES ITS WILLINGNESS

TO ACCEPT THE DECLARATION OF THE SUCCESSOR STATE.
UPON THE ENTRY INTO FORCE OF THE CONVENTION AS BETWEEN
SUCH STATES, THE PROVISIONS OF THE CONVENTION SHALL
THEN APPLY TO THE EFFECTS OF THE SUCCESSION OF STATES
AS FROM THE DATE OF SUCH SUCCESSION.

- 3. A SUCCESSOR STATE MAY AT THE TIME OF SIGNING
THE PRESENT CONVENTION DECLARE THAT IT WILL APPLY THE

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TO SECSTATE WASHDC PRIORITY 7589
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PROVISIONS OF THE CONVENTION PROVISIONALLY IN RESPECT
OF ITS OWN SUCCESSION OF STATES WHICH HAS OCCURRED
BEFORE THE ENTRY INTO FORCE OF THE CONVENTION IN
RELATION TO ANY OTHER SIGNATORY STATE WHICH DECLARES
ITS WILLINGNESS TO ACCEPT THE DECLARATION OF THE
SUCCESSOR STATE; THOSE PROVISIONS SHALL THEN APPLY
PROVISIONALLY TO THE EFFECTS OF THE SUCCESSION OF
STATES AS BETWEEN THOSE TWO STATES AS FROM THE DATE OF
SUCH SUCCESSION.

- 4. ANY DECLARATION MADE IN ACCORDANCE WITH THE
PROVISIONS OF PARAGRAPH 2 OR 3 SHALL BE CONTAINED IN
A WRITTEN NOTIFICATION TO THE SECRETARY-GENERAL OF THE
UNITED NATIONS, WHO SHALL INFORM THE PARTIES AND THE
STATES ENTITLED TO BECOME PARTIES TO THE PRESENT
CONVENTION OF THE DEPOSIT WITH HIM OF THAT NOTIFICATION
AND OF ITS TERMS. UNQUOTE. WOLF

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